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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/588,247

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Jonathan L. Weber

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BAE SYSTEMS

PO BOX 868

NASHUA, NH 03061-0868

EXAMINER

WACHSMAN, HAL D

ART UNIT

PAPER NUMBER

2857

MAIL DATE

DELIVERY MODE

06/15/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/588,247	Applicant(s) WEBER ET AL.	
	Examiner Hal D. Wachsman	Art Unit 2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15 is/are allowed.
- 6) ☒ Claim(s) 16, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3-23-09</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. The replacement sheet drawings filed 3-13-09 are objected to because at the top these drawings are labeled as being of the WO 2008/027023 and PCT/US2005/003811 applications. Also, these replacement sheet drawings are informal. Appropriate correction is required.
2. Claim 6 is objected to under 37 C.F.R. 1.121 because "the single element sensor" in the original version of claim 6 has now been changed to "the single *sensor* element sensor" in the claim 6 in the reply filed 3-13-09 without the appropriate markings and status identifier to show this change. Appropriate correction is required.
3. Claim 18 is objected to under 37 C.F.R. 1.75(a) for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claim 18, line 3, cites "determining" which lacks clear antecedent basis. While the examiner understands the intentions of the applicant he feels confusion could be drawn from the limitation cited above. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 16, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Bushman (5,999,652).

As per claim 16, Bushman (Abstract, figure 2, col. 8 lines 9-26) discloses "sensing radiation within a field of view" and "generating a single detection signal in response to the sensed radiation". Bushman (Abstract, col. 6 lines 1-8, 26-34) discloses "analyzing the detection signal as a function of time". Bushman (Abstract, col. 3 lines 48-50) discloses "detecting from the analysis whether the signal indicates a short-burn threat has occurred within the field of view".

As per claim 19, Bushman (Abstract, figure 2 – block 28) discloses the feature of this claim.

As per claim 20, Bushman (figure 4, col. 3 lines 48-50, col. 4 lines 46-50) discloses the feature of this claim.

6. Claims 1-15 are allowed subject to the appropriate correction of the 37 C.F.R. 1.121 objection noted in paragraph 2 above.

Claims 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims subject to the appropriate correction of the 37 C.F.R. 1.75(a) objection noted in paragraph 3 above.

7. Applicant's arguments filed 3-13-09 have been fully considered but they are not persuasive with respect to the claims rejected above. On pages 9-11 of the reply filed 3-13-09, various arguments are presented with respect to claim 1 and the 35 U.S.C. 102(b) rejections using the Bushman reference. *However, claim 1 was not rejected under art using Bushman but rather it was claims 16, 19 and 20.* Page 11 of this reply then states "Independent claims 9 and 16 are allowable for reasons similar to those

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discussed above with regard to claim 1. Bushman neither discloses nor suggest the detection of short-burn threats as recited in both these claims.” However, the Examiner respectfully notes that the features of *method claim 16* are not identical to the features of system claim 1. Also, claim 20 of the instant application cites the types of short-burn threats include tank shells and rocket-propelled grenades. Bushman (Abstract) cites the image modulation detection of explosives which constitutes therefore a short-burn threat (i.e. rocket-propelled grenades are a type of explosives). In addition, Figure 4 in Bushman clearly shows the detection of a tank and col. 3 lines 48-50 state “Detector system 19 forms two sequential picture images of a field of view in which a missile, aircraft or **other moving object to be detected is located**”. Therefore, the types of threats to be detected are not limited to missiles or planes but can be other types of moving objects which can thus include such moving objects as tank shells or rocket-propelled grenades which are short-burn threats.

8. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D. Wachsman whose telephone number is 571-272-2225. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eliseo Ramos-Feliciano can be reached on 571-272-7925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hal D Wachsman/
Primary Examiner
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June 10, 2009